

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 16-60383



A True Copy
Certified order issued Feb 22, 2017

Steph W. Cauce
Clerk, U.S. Court of Appeals, Fifth Circuit

MICHAEL BANARD MOORE,

Plaintiff - Appellant

v.

NURSE UNKNOWN LITTLE; DAFFNEY DEVON SMITH; DOCTOR CARL
FAULKES; WARDEN RAY RICE; CEO OF MTC SCOTT MARQUARDT,

Defendants - Appellees

MICHAEL BANARD MOORE,

Plaintiff - Appellant

v.

CEO SCOTT MARQUARDT; WARDEN JERRY BUSCHER; NURSE
UNKNOWN DUFF,

Defendants - Appellees

Appeal from the United States District Court for the
Southern District of Mississippi, Jackson
USDC No. 3:13-CV-801 / 3:14-CV-83

16-60383

Before CLEMENT, OWEN, and COSTA, Circuit Judges.

PER CURIAM:

This court must examine the basis of its jurisdiction, on its own motion if necessary. *Hill v. City of Seven Points*, 230 F.3d 167, 169 (5th Cir. 2000). Pursuant to 28 U.S.C. § 2107(a) and Federal Rule of Appellate Procedure 4(a)(1)(A), the notice of appeal in a civil case must be filed within thirty days of entry of judgment. In this prisoner civil rights case, the district court entered a final judgment dismissing the petition on December 12, 2014. Therefore, the final day for filing a timely notice of appeal was Monday, January 11, 2015, because the thirtieth day was a Sunday. *See* FED. R. APP. P. 26(a)(1)(C). The plaintiff's pro se notice of appeal is dated May 25, 2016, and stamped as filed on June 6, 2016. Because the notice of appeal is dated May 25, 2016, it could not have been deposited in the prison's mail system within the prescribed time. *See* FED. R. APP. P. 4(c)(1) (prisoner's pro se notice of appeal is timely filed if deposited in the institution's internal mail system on or before the last day for filing). The time limitation for filing a notice of appeal in a civil case is jurisdictional. *Bowles v. Russell*, 551 U.S. 205, 214 (2007). The lack of a timely notice mandates dismissal of the appeal. *Robbins v. Maggio*, 750 F.2d 405, 408 (5th Cir. 1985).

IT IS SO ORDERED.